

**EXHIBIT 10**

1  
2 UNITED STATES DISTRICT COURT  
3 FOR THE DISTRICT OF PUERTO RICO  
4

5 In re:

6 THE FINANCIAL OVERSIGHT AND  
7 MANAGEMENT BOARD FOR PUERTO  
8 RICO,

PROMESA

Title III

9 as representative of  
10 THE COMMONWEALTH OF PUERTO RICO,  
11 et al.,  
12 Debtors.

13 In re:

14 THE FINANCIAL OVERSIGHT AND  
15 MANAGEMENT BOARD OF PUERTO RICO,

PROMESA

Case No.

17 BK 4780-LTS

16 as representative of  
17 PUERTO RICO ELECTRIC POWER AUTHORITY,  
18 Debtor.

19 (Caption continued on following page.)

20 \* P R O F E S S I O N A L E Y E S O N L Y \*

21 VIDEOTAPED DEPOSITION

22 OF

23 DAVID BROWNSTEIN

24 New York, New York

25 Wednesday, October 16, 2019

Reported by:

ANNETTE ARLEQUIN, CCR, RPR, CRR, CLR

JOB NO. 169670

1 D. Brownstein - Professional Eyes Only  
2 bonds in the tobacco market, which are  
3 securitizations and, as you may be aware,  
4 secured by payments into states from the  
5 tobacco companies that are securing those  
6 securitization bonds.

7 Q. Okay.

8 A. We looked at securitizations in  
9 the utility space, and we looked at where  
10 high-yield bonds were trading in the  
11 secondary market.

12 Q. Let me ask you a few questions  
13 about that.

14 When you say you looked at the  
15 utility space, was that power generation or  
16 some other type of utility?

17 A. Securitizations have been used  
18 primarily in the utility space for closures  
19 of nuclear power plants. But they've also  
20 been used for issuers such as Long Island  
21 Power Authority to finance their legacy  
22 assets.

23 Q. And you believe that those types  
24 of bonds in the utility space provide a  
25 basis of comparison to arrive at 5.25

1 D. Brownstein - Professional Eyes Only  
2 percent for the coupon rate on these bonds?

3 MS. SPILLANE: Objection to form.

4 A. I believe that all of those  
5 securities I mentioned assist in  
6 determining what is a fair market value.

7 Q. Okay. You indicated, I believe,  
8 that you looked at certain high-yield  
9 bonds.

10 Were those municipal high-yield  
11 bonds?

12 A. Yes. Everything we looked at was  
13 a municipal.

14 Q. When did you look -- did you look  
15 at all these different bonds at the same  
16 period of time?

17 A. Yes, sir.

18 Q. Okay. And when did you look?

19 A. As we were negotiating the price  
20 and the coupon for the bonds, of course  
21 there were, as you have seen from  
22 documentation, arguments between us and the  
23 creditors as to what was the appropriate  
24 coupon for the bonds. And so we needed to  
25 justify the coupon we were using.

1 D. Brownstein - Professional Eyes Only  
2 Q. Okay. Can you tell me what  
3 period of time this took place?

4 A. I can't.

5 Q. Well, can you tell me if it was  
6 2018?

7 A. Yes.

8 Q. Okay. So would it be fair to say  
9 that the coupon rate was -- or you looked  
10 at these other bonds to determine the range  
11 in 2018?

12 MR. MASHBERG: Objection to the  
13 form.

14 A. I would suggest that we were  
15 looking at them as we were discussing with  
16 the board what was the appropriate rate and  
17 as we were making our proposals to the  
18 creditors.

19 Q. Okay. And do you know the last  
20 time that you looked at these different  
21 bonds, the utility space bonds, the  
22 high-yield bonds, and the tobacco market  
23 bonds?

24 MS. SPILLANE: Objection to form.

25 A. It would have been prior to the

1 D. Brownstein - Professional Eyes Only  
2 agreement of the preliminary RSA.

3 Q. I think that you mentioned with  
4 respect to the tobacco securitization  
5 bonds, those have -- is it your  
6 understanding those have a guaranteed  
7 revenue stream?

8 MS. SPILLANE: Objection to form.

9 A. They have a revenue stream to the  
10 extent it exists.

11 Q. Okay. How about with the utility  
12 space bonds that you looked at?

13 A. Those have a guaranteed revenue  
14 stream to the extent that there's  
15 compliance with the terms of the documents.

16 Q. Okay. And the municipal  
17 high-yield bonds, did you look at the  
18 entire market or specific bonds within that  
19 high-yield bond space?

20 A. We looked at the entire market,  
21 including many different types of security  
22 structures.

23 Q. Would it be fair to say that you  
24 looked at the entire market or you looked  
25 at the entire market and then specific

1 D. Brownstein - Professional Eyes Only  
2 bonds within that market?

3 MS. SPILLANE: Objection to form.

4 A. I don't understand your question.

5 Q. Okay. I understood, and I could  
6 have misunderstood, that you looked at the  
7 entire high-yield bond market.

8 But I want to clarify and make  
9 sure, did you look at individual municipal  
10 high-yield bonds within the high-yield bond  
11 market as well?

12 MR. MASHBERG: Objection to form.

13 A. Your last question was about the  
14 entire market --

15 Q. Yes.

16 A. -- not specifically about the  
17 high-yield market?

18 Q. Right, which is why I want to  
19 clarify.

20 A. To clarify, I said the high-yield  
21 market.

22 Q. Okay. Are you familiar with the  
23 COFINA bonds?

24 A. Yes.

25 Q. Did you look at the COFINA bonds

1 D. Brownstein - Professional Eyes Only  
2 at all in determining the coupon rate?

3 MR. MASHBERG: Objection to form.

4 A. To go back a step so you  
5 understand, I'm the one who determines the  
6 COFINA yields.

7 Q. Right.

8 A. And, therefore, I would have  
9 taken them into account in my analysis.

10 Q. And when did you determine the  
11 rate for the COFINA bonds?

12 A. At the time that we entered into  
13 the restructuring support agreement in  
14 mediation for COFINA.

15 Q. Okay. And the bond yields, do  
16 you know what's happening with the bond  
17 yields with respect to -- or let me  
18 rephrase it.

19 Do you know whether or not the  
20 COFINA bonds are now trading above par?

21 A. Some of them are, yes. We've had  
22 a significant amount of luck in the market  
23 because the entire municipal market due to  
24 supply and demand has increased in value  
25 and, therefore, decreased in yield

1 D. Brownstein - Professional Eyes Only  
2 dramatically over the past six months.

3 Q. I'm sorry, six months?

4 A. Yes.

5 Q. Did you update --

6 A. And by the way, I should note  
7 that not all of the bonds are over par now.  
8 Some are below.

9 Q. Right.

10 Are the 2058 COFINA bonds over  
11 par?

12 A. I'm sorry, I can't get that  
13 specific for you. I don't track it on a  
14 daily basis.

15 Q. I appreciate the clarification.

16 A. I believe it's the longest bonds  
17 that are still all below par, just for the  
18 record.

19 Q. Okay. Thank you.

20 Is it your practice to update the  
21 FOMB with respect to the yields -- I'm  
22 sorry, the current interest rates with  
23 respect to the high-yield bond market?

24 MS. SPILLANE: Objection to form.

25 MR. MASHBERG: Objection to form.

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2 A. No.

3 Q. Do you know what the current  
4 yields are in the high-yield bond market?

5 MS. SPILLANE: Objection to form.

6 MR. MASHBERG: Objection to form.

7 A. I'm sorry, to be clear, there are  
8 thousands of names in the high-yield  
9 municipal market, so I don't understand  
10 your question.

11 Q. If yields come down, is it your  
12 experience that that's a benefit to the  
13 bondholders?

14 MS. SPILLANE: Objection to form.

15 MR. MASHBERG: Objection to form.

16 A. If yields come down, the  
17 beneficiary of that would be the existing  
18 bondholder on that day, correct.

19 Q. When establishing the 5.25  
20 percent, did you sound the market?

21 A. I don't understand your question,  
22 sir.

23 Q. I'll try to rephrase it to be  
24 clear and come back to you.

25 In your declaration, you analyzed

1 D. Brownstein - Professional Eyes Only  
2 the total consideration that was to be paid  
3 to supporting holders under the RSA.

4 Is that a fair statement?

5 A. Yes.

6 Q. Okay. Did you negotiate those  
7 numbers? Were you involved in negotiating  
8 the percentage and total recoveries under  
9 the RSA?

10 A. Yes.

11 Q. Now in doing that, did you have a  
12 threshold recovery percentage that you  
13 would not have exceeded?

14 A. No.

15 Q. Now in creating that analysis of  
16 the consideration that was paid, did you  
17 put -- let me ask you, are you familiar  
18 with the terms "settlement payments,"  
19 "administrative claims"? You're familiar  
20 with those?

21 MR. MASHBERG: Objection to form.

22 MS. SPILLANE: Objection to form.

23 A. Yes.

24 Q. Did you put a value on the  
25 settlement payments in calculating the

1 D. Brownstein - Professional Eyes Only  
2 total consideration that would be paid  
3 under the RSA?

4 MS. SPILLANE: Objection to form.

5 MR. NATBONY: Objection to form.

6 A. I don't understand your question.

7 Q. Do you think that settlement  
8 payments during the course of negotiations,  
9 did that represent a value that you were  
10 exchanging in order to arrive at a deal for  
11 the RSA?

12 MS. SPILLANE: Objection to form.

13 MR. MASHBERG: Objection to form.

14 A. I still don't understand your  
15 question.

16 Q. In arriving at the RSA, did you  
17 analyze the likelihood of different  
18 litigation scenarios during the course of  
19 negotiations?

20 MR. MASHBERG: Objection to form.

21 MS. SPILLANE: Objection to form.

22 A. I am not a lawyer. I didn't  
23 analyze anything when it comes to legal  
24 determinations.

25 Q. Well, did you take anyone's

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2 determinations and try to ascribe a dollar  
3 value it in the course?

4 MS. SPILLANE: Objection to form.

5 MR. MASHBERG: Objection to form.

6 A. I think you need to get a little  
7 more specific.

8 Q. Okay.

9 A. It's too generic for me.

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2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
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1 D. Brownstein - Professional Eyes Only

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22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

Q. Okay. Are you done?

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2 A. Yes.

3 Q. Thank you. Thank you for that.

4 I have a couple of questions  
5 about that. You've used the term a few  
6 times "creditors."

7 To whom do you refer to, all  
8 creditors or someone else or another group?

9 A. I refer to in the case of this,  
10 the negotiations with the creditors, which  
11 included the ad hoc group, the three  
12 monoline insurers, the fuel line lenders.

13 Q. Okay. But PREPA -- are you aware  
14 whether or not PREPA has creditors beyond  
15 those entities you just identified?

16 A. Yes, I am. But what we're  
17 talking about here is the structure of the  
18 debt that was being issued to replace the  
19 existing debt of those creditors.

20 Q. I understand that. I had moved  
21 on to a different question. I'm sorry if I  
22 was unclear.

23 A. Okay.

24 Q. Now those creditors, were any of  
25 those creditors involved in any litigation

1 D. Brownstein - Professional Eyes Only  
2 with respect to claims asserted on behalf  
3 of bonds that they had held?

4 MR. NATBONY: Objection to form.

5 MR. MASHBERG: Objection to form.

6 A. I understand that the -- certain  
7 of those bond creditors that I was talking  
8 about were litigating or had proposed to  
9 litigate, I don't know if they started the  
10 litigation or not, on a receiver motion to  
11 start, which was a right I believe they had  
12 under the indenture of trust relating to  
13 the revenue bonds outstanding.

14 Q. Okay. Are you aware of any  
15 claims or positions that the FOMB had taken  
16 with respect to the extent or nature of the  
17 security that the bondholder creditors  
18 claimed?

19 MS. SPILLANE: Objection to form.

20 MR. MASHBERG: Objection to form.

21 A. I believe Proskauer was -- either  
22 has or was considering litigating on  
23 whether the bondholders had a lien.

24 Q. Okay. Now going back to a few  
25 moments, did you consider that lien issue

1 D. Brownstein - Professional Eyes Only  
2 that you just identified in the course of  
3 your negotiations?

4 MS. SPILLANE: Objection to form.

5 A. We discussed with Proskauer and  
6 the board the possible benefits of the lien  
7 challenge. But we also discussed with  
8 Proskauer and the board the desire to find  
9 a settlement with the creditors for several  
10 reasons. I think I've described some of  
11 them.

12 One, the risk of the receiver  
13 motion would be that rates would  
14 significantly increase and the bondholders  
15 would have a true-up mechanism, a rate  
16 covenant that would apply as well.

17 Two, that if we were in  
18 litigation, it would impact our process of  
19 transformation, which was the second  
20 critical fact in determining the roadmap to  
21 a successful agreement amongst creditors  
22 and the board and ultimately all government  
23 parties.

24 Q. Okay.

25 A. And so in the end here, we tried

1 D. Brownstein - Professional Eyes Only  
2 to strike the right balance between risks  
3 and rewards.

4 Q. Thank you.

5 With respect to -- you mentioned  
6 the risk of the receiver motion.

7 Did anyone evaluate what that  
8 risk was?

9 MS. SPILLANE: Objection to form.

10 A. We discussed it, but the people  
11 who would have evaluated it are Proskauer,  
12 not Citi.

13 Q. I understand that.

14 But did Citi, once that -- if  
15 that risk was evaluated, did Citi do  
16 anything to ascribe a monetary value or a  
17 settlement value to the risk of that  
18 receiver motion?

19 MS. SPILLANE: Objection to form.

20 MR. NATBONY: Objection as to  
21 form.

22 A. The determination by the  
23 government and the board was that there was  
24 a risk that we didn't want the public in  
25 Puerto Rico to continue to have. And that

1 D. Brownstein - Professional Eyes Only  
2 was the determination for negotiating a  
3 settlement.

4 Q. Okay. So was it the fact the  
5 risk existed, not the level of risk?

6 Would that be fair?

7 MS. SPILLANE: Objection to form.

8 A. Correct.

9 Q. Also you mentioned on the second  
10 part of your response, litigation -- and I  
11 wrote this down, tell me if I'm wrong --  
12 could impact, could have an impact?

13 Do you recall that?

14 A. What I said is what I said.

15 Q. Okay.

16 A. I'm not going to recall what I  
17 said.

18 Q. All right.

19 A. If you want them to read it back,  
20 we can do that.

21 Q. All right. If the FOMB -- I  
22 believe -- if the FOMB had been successful  
23 on these lien challenges that we  
24 identified, would that have had a positive  
25 impact in transformation?

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2 MS. SPILLANE: Objection to form.

3 MR. MASHBERG: Objection to form.

4 A. I have no idea.

5 Q. Okay.

6 A. But what I do know is it would  
7 have taken a long time, which is what we  
8 were trying to avoid.

9 Q. So would you say that the  
10 expediency was a critical factor in the  
11 evaluation?

12 MS. SPILLANE: Objection to form.

13 MR. MASHBERG: Objection to form.

14 A. Timing was a factor in our  
15 determinations, yes.

16 Q. Was it an important factor?

17 MS. SPILLANE: Objection to form.

18 A. I don't have an answer to that  
19 question.

20 Q. While that's getting handed out,  
21 let me ask you, going back to the coupon  
22 rate, is that 5.25 percent coupon rate on  
23 the bonds locked in?

24 A. Yes.

25 Q. Okay. Any circumstance under

1 D. Brownstein - Professional Eyes Only  
2 which it can change?

3 A. Not that I'm aware of.

4 Q. And I believe with respect to  
5 timing, you indicated that when you  
6 performed the analysis to come at the 5.25  
7 percent, that it was done in 2018?

8 MS. SPILLANE: Objection to form.

9 A. I believe so.

10 Q. Okay. Is there a reason that the  
11 coupon rate wasn't -- or was the coupon  
12 rate revisited after the preliminary RSA?

13 A. Not that I recall.

14 Q. Do you know why it wasn't?

15 MR. MASHBERG: Objection to form.

16 A. We had an agreement.

17 Q. Was the preliminary RSA binding  
18 or unbinding, in your opinion?

19 MS. SPILLANE: Objection to form.

20 A. It was binding.

21 Q. So is it your understanding that  
22 the 5.25 percent would have been locked in  
23 as of the date of the preliminary RSA or at  
24 some other point?

25 A. I believe it was the preliminary



1 D. Brownstein - Professional Eyes Only  
2 RSA, but I need to go back and look at all  
3 the documents.  
4 (Brownstein Exhibit 3, Email  
5 chain beginning with email dated  
6 4/26/19 from ICG-MKTS, Castiglioni and  
7 sent to Batlle and Porter and others  
8 with attachments, Bates-stamped  
9 CGMIRSA\_001458 through 1465, marked for  
10 identification, as of this date.)

11 BY MR. ARRASTIA:

12 Q. Let me ask you if you recognize  
13 this is document which I'll mark as  
14 Exhibit 3.

15 MR. MASHBERG: The Bates-stamp  
16 number in the record for clarity?

17 MR. ARRASTIA: Yes, No. 3.

18 MR. MASHBERG: The Bates.

19 MR. ARRASTIA: Oh, I'm sorry, the  
20 Bates.

21 That begins on 1458, ending on  
22 1465, with the prefix CGMIRSA.

23 MR. MASHBERG: Thank you.

24 A. I'm sorry, are you asking me if I  
25 recognize the email, or the presentation,

1 D. Brownstein - Professional Eyes Only  
2 or both?

3 Q. Well, let's start with both. Do  
4 you recognize both?

5 MR. NATBONY: Objection to form.  
6 (Document review.)

7 A. Yes.

8 Q. Looking at the PREPA discussion  
9 material that begins on Bates No. 1460, if  
10 you could look at the last page of that.

11 (Witness complies.)

12 Q. It's entitled "Benefits and  
13 Considerations of the Current PREPA RSA."

14 A. Um-hmm.

15 Q. Is that reflective of the type of  
16 information that would be given to the  
17 board?

18 MS. SPILLANE: Objection to form.

19 A. Some of the information that was  
20 given to the board.

21 Q. Okay. And what other  
22 communications would be reflective, not  
23 exhaustive, but reflective of the  
24 information that would be given to the  
25 board regarding the PREPA RSA?

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2 MS. SPILLANE: Objection to form.

3 MR. MASHBERG: Objection to form.

4 MR. NATBONY: Objection to form.

5 A. We had numerous calls either with  
6 the board as a whole or with each  
7 individual board member to review all of  
8 the concepts embedded in the PREPA RSA.

9 Q. Okay.

10 A. The PREPA securitization  
11 structure is probably the most complex  
12 thing any of us involved have ever seen or  
13 hopefully will see in our lifetime. And  
14 the fact is that it took a lot of dialogue  
15 with the board and the other advisers to  
16 the board and the government to get people  
17 comfortable with the terms of it.

18 Q. Okay. So would it be fair to say  
19 that the other types of communications that  
20 would be reflective of the information  
21 given to the board would have occurred  
22 through phone calls and other verbal  
23 communications?

24 MR. MASHBERG: Objection to form.

25 MS. SPILLANE: Objection to form.

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2 A. Some of it, some of it would have  
3 been in presentations, of which there were  
4 many.

5 Q. Okay. Did you keep notes of the  
6 phone calls or personal conversations with  
7 the board or the individual members of the  
8 board?

9 A. No, I don't keep notes.

10 Q. On the top right where it says,  
11 "Power revenue bonds may be unsecured  
12 because perfection was defective,  
13 successful litigation could result in lower  
14 recoveries" --

15 A. Um-hmm.

16 MR. MASHBERG: I'm sorry, where  
17 are you?

18 THE WITNESS: On the last page.

19 MR. ARRASTIA: Last page of Bates  
20 No. 1465. The title of the page is  
21 "Benefits and Considerations of the  
22 Current PREPA RSA."

23 MR. MASHBERG: Got it.

24 A. Um-hmm.

25 Q. Okay. These power revenue bonds



1 D. Brownstein - Professional Eyes Only  
2 -- well, first of all, let me ask you, do  
3 you have an understanding of the difference  
4 between a nonrecourse and a recourse bond?

5 MS. SPILLANE: Objection to form.

6 A. I'm not quite sure of your  
7 question. Perhaps you could you describe  
8 the difference.

9 Q. Well, are you familiar with the  
10 concept that some bonds or some  
11 obligations, there is recourse against the  
12 issuer in the case of a default; and in  
13 other instances, there is no recourse or  
14 there is no opportunity to seek a recovery  
15 against the issuer in the event of a  
16 default?

17 A. I'm not aware of any revenue  
18 bonds that are, as you called them,  
19 nonrecourse.

20 Q. Are you familiar with a sinking  
21 fund?

22 MR. MASHBERG: Objection to form.

23 MS. SPILLANE: Objection to form.

24 MR. NATBONY: Same.

25 BY MR. ARRASTIA:

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2 Q. That existed at the point of the  
3 petition date?

4 A. I don't know what you're asking  
5 me.

6 Q. Okay. Well, I'm asking if you're  
7 familiar with it. And if you don't know,  
8 then --

9 A. I don't know what you're talking  
10 about.

11 Q. Have you heard of something  
12 called the sinking fund with respect to  
13 PREPA?

14 A. Bond issues often have term bonds  
15 with sinkers or bond fund where cash flow  
16 is received and then paid out by the  
17 trustee to the bondholders --

18 Q. Okay.

19 A. -- if that's what you're asking  
20 about.

21 Q. Did that exist with respect to  
22 these power revenue bonds?

23 A. PREPA had term bonds with sinkers  
24 and sinking funds, yes.

25 Q. And do you know how much cash was

1 D. Brownstein - Professional Eyes Only  
2 in those sinking funds as of the petition  
3 date?

4 A. I don't recall.

5 Q. Earlier we talked about an actual  
6 or potential challenge with respect to the  
7 bond claims.

8 Do you know if that had to do  
9 with respect to the -- whether or not they  
10 were secured or unsecured?

11 MR. MASHBERG: Objection to form.

12 A. It had to do with whether they  
13 had a lien, which would mean that  
14 potentially if funds were transferred into  
15 the bond funds or were not transferred in,  
16 the bondholders wouldn't have a right to  
17 them. That was what Proskauer's position  
18 was.

19 Q. And just to be clear, so your  
20 understanding was -- is that this -- the  
21 lien would be on the funds and these term  
22 bond sinkers?

23 A. In the bond funds --

24 MR. MASHBERG: Objection to form.

25 MS. SPILLANE: Objection to form.

1 D. Brownstein - Professional Eyes Only

2 A. -- is what I would tell you.

3 Q. Did you ever have a conversation  
4 with the FOMB with respect to the issue of  
5 liens on the term bonds?

6 A. We had numerous conversations  
7 with the board on that topic led by  
8 Proskauer. Since I am not an attorney, I  
9 wouldn't be the one making the case for  
10 that.

11 MR. MASHBERG: I would just  
12 caution the witness in further  
13 questions not to disclose  
14 communications with Proskauer to the  
15 board at which he was present with  
16 regard to any legal advice or legal  
17 analysis. That would be subject to the  
18 attorney-client privilege given the  
19 role that Citi was playing in this  
20 process as an adviser to the board.

21 MR. ARRASTIA: Thank you for  
22 that. I'm trying to tap dance around  
23 it, by the way.

24 MR. LYNCH: And I would just like  
25 to object to that cautioning because it

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1 D. Brownstein - Professional Eyes Only  
2 that during a majority of the day, the  
3 amount of utilization of PG&E's system, as  
4 an example, is very low.

5 But at night, PG&E's requirements  
6 go up dramatically in electricity they  
7 need. So they have to maintain systems in  
8 place to cover that peak need for the  
9 public. And yet if you think about it, if  
10 you're only paying for what you use, then  
11 how does PG&E maintain that system and keep  
12 that system operating properly 24/7 for the  
13 time that people need it off-peak or peak  
14 for -- because there's no sun out.

15 So that is what we are telling  
16 the public in Puerto Rico that they --  
17 clearly we've seen a lot of push back on.

18 If you want to remain on the  
19 system and therefore have the right to call  
20 on it at will, we have to, PREPA has to  
21 maintain it. Someone has to pay for it.  
22 You will cover your share of the legacy  
23 debt to cover it.

24 So that's the last piece of the  
25 really three pieces of the demand

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2 protections.

3 Q. Okay. You mentioned that with  
4 respect to the government or  
5 instrumentalities paying the power bills,  
6 that the government has to own that issue.  
7 But it's actually the consumers, government  
8 or otherwise, that would have to pay?

9 A. No.

10 MS. SPILLANE: Objection to form.

11 [REDACTED]  
12 [REDACTED]  
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1 D. Brownstein - Professional Eyes Only

[REDACTED]

17 MS. SPILLANE: Counsel, if you're  
18 reaching a natural stopping place, I  
19 think we can break for lunch soon.

20 MR. ARRASTIA: That's good. Does  
21 this work fine?

22 THE VIDEOGRAPHER: The time is  
23 12:20 p.m. going off the record.  
24 (Recess is taken.)  
25

1 D. Brownstein - Professional Eyes Only  
2 AFTERNOON SESSION  
3 (Time noted: 1:20 p.m.)  
4 \* \* \*

5 THE VIDEOGRAPHER: The time is  
6 12:59 p.m. We are on the record.  
7

8 DAVID BROWNSTEIN, resumed  
9 and testified as follows:  
10 EXAMINATION BY (Cont'd.)

11 MR. ARRASTIA:

12 Q. Mr. Brownstein, you used the term  
13 "true-up" a little bit during your  
14 testimony.

15 Could you explain to me what you  
16 mean by true-up?

17 A. Sure.

18 So it's not that different -- in  
19 fact, it's identical except for potentially  
20 timing -- to a rate covenant for a revenue  
21 bond. So if you look at, as an example,  
22 the PREPA indenture, right, PREPA is  
23 obligated to maintain rates and charges on  
24 the debt sufficient to cover debt service  
25 at 1.2 times coverage.

1 D. Brownstein - Professional Eyes Only

2 In a true-up on a securitization  
3 bond, you also have a true-up equivalent of  
4 a rate covenant where on a monthly basis,  
5 you will adjust the rates and charges that  
6 the customers pay so that you have a  
7 sufficient amount of money to cover one  
8 times, usually, debt service on the  
9 upcoming next payment.

10 And the reason that it's one  
11 times as opposed to 1.2 has a lot to do  
12 with two things.

13 One, the reserve requirement on a  
14 securitization, so there's cash there to  
15 cover that monthly shortfall if need be,  
16 but the constant obligation to adjust the  
17 charge monthly as opposed to for revenue  
18 bonds where it's generally changed  
19 quarterly or semiannually.

20 Q. Okay.

21 A. So it's the same concept as we  
22 already had and that you'd see in LIPA, you  
23 see in California state securitization  
24 bonds, things of that sort.

25 Q. All right. So -- but the current

1 D. Brownstein - Professional Eyes Only  
2 PREPA bonds, those have a specific period?

3 A. They have a rate covenant.

4 MR. MASHBERG: Objection to form.

5 A. They have a rate covenant.

6 Q. Okay. But do the bonds have a  
7 certain period of time, 30 years, 50 years,  
8 60 years? Or can they go on forever?

9 A. Oh, no, the existing revenue  
10 bonds have a final state in maturity, but  
11 there is a default when payment due.

12 Q. Okay.

13 A. So that's when you can have the  
14 creditors require a receiver, as an  
15 example, to make sure that you actually  
16 comply with the rate covenant, which is the  
17 1.2 times.

18 Q. Okay.

19 A. But I think what you were asking  
20 me, if I can -- just to be clear so I  
21 answer your question properly, is what  
22 happens at maturity, not on an ongoing  
23 basis; is that right?

24 Q. No.

25 A. Okay. Sorry.

1 D. Brownstein - Professional Eyes Only

2 Q. I was just wondering if it had a  
3 maturity date. That's all. And you  
4 answered it.

5 A. Okay. In neither case -- they  
6 both have maturities, but failure to pay in  
7 both cases doesn't allow you to walk away  
8 from your liability.

9 Q. Wait a second. When you say, I'm  
10 sorry, in both cases, what do you mean by  
11 "both cases"?

12 A. Securitization as well as the  
13 revenue bonds.

14 Q. And the revenue bonds do not have  
15 the true-up, correct?

16 A. They have a rate covenant which  
17 is stricter and requires that you maintain  
18 or you are in default.

19 Q. Okay. But is there a provision  
20 that if the debt service isn't made, that  
21 debt service is carried over?

22 A. You have an acceleration  
23 potentially of the debt. You have a  
24 default and remedies for default under a  
25 revenue bond and in case of PREPA. That's

1 D. Brownstein - Professional Eyes Only  
2 what we were -- we're arguing over is what  
3 are the remedies the bondholders are  
4 entitled to, including appointment of a  
5 receiver.

6 Q. Okay. The Tranche A bonds under  
7 the RSA, those have a term, correct?

8 A. They have a stated term.

9 Q. Okay. And -- because you said  
10 PREPA bonds, and I want to make sure we're  
11 clear.

12 When you say -- when we're  
13 talking about them, I'm talking about the  
14 bonds contemplated Tranche A --

15 A. The securitization?

16 Q. Yes.

17 A. Okay.

18 Q. So the debt service, if it's not  
19 made in any particular period, does it  
20 carry forward?

21 A. It carries forward. That's the  
22 only right the bondholders have is to, over  
23 time, receive repayment. That time period  
24 on Tranche A could be 300 years. So they  
25 have no remedies other than for a failure

1 D. Brownstein - Professional Eyes Only  
2 by the servicer to charge customers.

3 So if you don't send out bills, I  
4 the securitization holder, the bondholder,  
5 can force a replacement of the party  
6 responsible for sending out those bills.

7 Q. Okay.

8 A. So that is the only remedy that  
9 you have. Other than that, you wait to get  
10 paid until there's cash flow sufficient.  
11 And, again, that cash flow is fixed from  
12 customers on a charge per kilowatt-hour,  
13 subject to the demand protections we've  
14 already talked about.

15 Q. Okay. And until the cash flow is  
16 sufficient, is it fair to say that as the  
17 debt service carries forward, it's interest  
18 on interest?

19 MS. SPILLANE: Objection to form.

20 A. Yes.

21 Q. You said Tranche A could be 300  
22 years.

23 What do you mean by that?

24 A. It means that it could take -- as  
25 long as it takes to get you repaid, you

1 D. Brownstein - Professional Eyes Only  
2 will get repaid, but the present value  
3 recovery to you, obviously you as a  
4 bondholder goes down every day you wait,  
5 right? Because you're not getting your  
6 principal back.

7 Q. Okay. Now you had -- I believe  
8 it was modeled that there's an expectation  
9 that the Tranche A bonds will be repaid in  
10 33 years?

11 A. Correct.

12 Q. Even though it's a 40-year  
13 maturity?

14 A. Correct.

15 Q. And what sort of load was used in  
16 coming up with a repayment in 33 years?

17 A. The fiscal plan.

18 Q. Which one? 2018?

19 A. The April of 2018. Is that  
20 right?

21 MS. SPILLANE: Answer to your  
22 memory if you're not sure.

23 A. Yes, I think it was 2018. It  
24 could have been -- no, it would have  
25 been...

1 D. Brownstein - Professional Eyes Only  
2 I'm terrible with dates. I  
3 apologize.

4 Q. Not a problem.

5 Has --

6 A. But it's in the RSA. Somewhere  
7 it says it.

8 Q. Okay. Has that load calculation  
9 changed, do you know, from 2018 to 2019?

10 A. Yes.

11 Q. How has it changed?

12 A. Well, there's been several  
13 additional fiscal plans since then. And I  
14 believe in some of them, it has gone down  
15 more before it started going up. And in  
16 others, it went up. It is based on the  
17 numbers when we struck a deal.

18 Q. And hasn't been revisited since  
19 striking that deal?

20 A. Correct.

21 Q. Now I look back at this handy  
22 electronic device, and I realize that I  
23 wasn't very clear.

24 You had asked me to give you a  
25 definition of nonrecourse. When I looked

1 D. Brownstein - Professional Eyes Only  
2 at it, I was not accurate.

3 So we talked about the PREPA  
4 bonds and you asked me for a definition.  
5 So if we use my definition that nonrecourse  
6 is a secured loan that's secured by a  
7 pledge of collateral and recourse allows an  
8 issuer to collect from collateral or any  
9 other assets of the issuer, do you have an  
10 understanding as to whether or not the  
11 PREPA bonds are recourse or nonrecourse?

12 MS. SPILLANE: Objection to form.

13 MR. MASHBERG: Objection.

14 MR. NATBONY: Objection.

15 A. We could try one more time if you  
16 want to try and help me understand your  
17 definition.

18 Q. Sure.

19 A. I'm not trying to be difficult.  
20 I don't understand.

21 Q. That's okay. That's fine. And I  
22 don't think that you are, by the way.

23 Let me ask you this way: The  
24 PREPA bonds, there were certain claims as  
25 to security.

1 D. Brownstein - Professional Eyes Only  
2 Do you know or do you have an  
3 understanding as to what they were secured  
4 by?

5 A. Well, they have a rate covenant,  
6 right?

7 Q. Okay.

8 A. Which requires that the -- that  
9 PREPA charge the customer base to cover  
10 debt service at 1.2 times.

11 Q. Okay.

12 A. So whether they have -- what I  
13 can't answer for you, because I'm not a  
14 lawyer, is whether having a lien or not  
15 having a lien on the debt service funds  
16 changes in any way, shape, or form whether  
17 they're entitled to the revenue charge  
18 against the system. And clearly the  
19 indenture requires that excess money, after  
20 payment of certain expenses, flows through  
21 to the debt service fund.

22 So I'm not in a position to  
23 answer for you in any way, shape, or form  
24 whether in fact that creates a secured or  
25 an unsecured position because of what



| Page 126  | Page 127   |
|---|--|
| <p>1 D. Brownstein - Professional Eyes Only<br/>2 arguably people are considering is a<br/>3 challenge with a lien.<br/>4 Q. Okay.<br/>5 A. All right? I don't know how to<br/>6 help you with that.<br/>7 Q. And I want to make sure that --<br/>8 because we talked about those definitions<br/>9 before.<br/>10 And so this debt, let's see, that<br/>11 you just referred to, debt service fund,<br/>12 that is the sinking fund account or<br/>13 something else?<br/>14 MS. SPILLANE: Objection to form.<br/>15 MR. NATBONY: Objection.<br/>16 A. So if you look at the indenture,<br/>17 it specifically outlines the different<br/>18 trust accounts there are. And the debt<br/>19 service fund is where all the cash flows to<br/>20 pay debt service on the bonds when due.<br/>21 Q. Okay.<br/>22 A. That's how I understand it.<br/>23 Q. And so it hasn't come into your<br/>24 analysis whether or not -- or what<br/>25 collateral might have been subjected to a</p> | <p>1 D. Brownstein - Professional Eyes Only<br/>2 lien?<br/>3 MS. SPILLANE: Objection to form.<br/>4 MR. HAMERMAN: Objection to form.<br/>5 A. No.<br/>6 Q. Have you ever you finalized the<br/>7 securitization cash flow?<br/>8 MS. SPILLANE: Objection to form.<br/>9 MR. MASHBERG: Objection to form.<br/>10 A. The only portion of the<br/>11 transaction from our perspective that isn't<br/>12 finalized is what will be the charge<br/>13 necessary to cover the total debt service<br/>14 which depends on when the Commonwealth and<br/>15 PREPA put in place charges that will be<br/>16 paid by the customer base.<br/>17 Q. Okay.<br/>18 A. If you look at the RSA, the<br/>19 expectation is there would be a one cent<br/>20 charge going into effect in July of 2019<br/>21 that would be a credit against interest<br/>22 due. And the longer we wait to put that in<br/>23 place, the higher we're accruing on that<br/>24 effectively and have to pay it.<br/>25 Q. Okay.</p>                   |
| Page 128  | Page 129   |
| <p>1 D. Brownstein - Professional Eyes Only<br/>2 A. Right?<br/>3 So that is the only portion that<br/>4 is an unknown.<br/>5 Q. Okay. I'll get back to that.<br/>6 So if that is the only unknown,<br/>7 would it be fair to say that the load that<br/>8 was used from the 2018 fiscal plan is the<br/>9 load that will be used in finalizing any<br/>10 cash flow for the securitization?<br/>11 A. As I said, everything else I<br/>12 believe is in place and finalized.<br/>13 Q. So you mentioned that one cent<br/>14 charge.<br/>15 Is it your understanding that<br/>16 that was supposed to be or intended to be<br/>17 in effect prior to this date?<br/>18 MR. NATBONY: Objection as to<br/>19 form.<br/>20 MS. SPILLANE: Objection.<br/>21 A. I believe so. I mean, we'd have<br/>22 to look at the RSA, but I believe it's in<br/>23 there with a specific date.<br/>24 Q. Do you have an understanding of<br/>25 when it might be?</p>                                | <p>1 D. Brownstein - Professional Eyes Only<br/>2 A. I don't.<br/>3 Q. Can you tie it to anything in<br/>4 this process, a 9019 hearing, confirmation,<br/>5 plan of adjustment?<br/>6 A. Can I tie it how? What do you<br/>7 mean by that?<br/>8 Q. In other words, you might not<br/>9 have a date. You might not be able to tell<br/>10 me December 3rd, 2021, but you might be<br/>11 able to say it would be around the same<br/>12 time as this other event even if you don't<br/>13 know what that date will be.<br/>14 A. It was expected to be July 2019.<br/>15 There is no other date. That is the date.<br/>16 Q. So that one cent per<br/>17 kilowatt-hour, is that expected -- is that<br/>18 accruing interest?<br/>19 A. No. It was a reduction against<br/>20 the interest we owe on the bonds between<br/>21 now and settlement.<br/>22 Q. Now when this is implemented --<br/>23 let me rephrase it.<br/>24 If this one cent reduction is<br/>25 implemented, upon the first payment, would</p> |



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[REDACTED]

Page 143

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[REDACTED]

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[REDACTED]

1 D. Brownstein - Professional Eyes Only  
2 A. I think that's --  
3 MS. SPILLANE: Objection to form.  
4 A. -- a question not for me. I'm  
5 not a lawyer.  
6 Q. Well, do you have an  
7 understanding?  
8 A. I think it's a question not for  
9 me as to how you accomplish it. You're  
10 asking a legal conclusion --  
11 Q. No, I'm not.  
12 A. -- and I'm not going to provide  
13 one. I don't -- I'm not in that business.  
14 Q. And that's why I'm not asking  
15 one, sir.  
16 I'm just asking, do you have a  
17 view?  
18 A. I believe from my discussions  
19 with -- so, no, I'm not prepared to respond  
20 to your question.  
21 Q. Okay. So in your experience  
22 working in this field, you have no  
23 viewpoint as to how revenue bonds or  
24 another obligation can be incurred that  
25 isn't prohibited by this?

1 D. Brownstein - Professional Eyes Only  
2 A. I believe what you're asking, if  
3 I can put this into my words for a moment,  
4 is, is there mechanism here under which we  
5 can provide funding for the UCC.  
6 Q. Among other things, that is a  
7 subset of the question.  
8 A. And based on discussions with  
9 counsel, I believe there is.  
10 Q. Okay.  
11 A. Okay? But that's as far as I  
12 will go today.  
13 Q. Would it be fair to say that you  
14 still believe -- that you believe that  
15 after the execution of the RSA, there would  
16 still be value in PREPA sufficient to pay  
17 creditors other than the supporting  
18 bondholders?  
19 MS. SPILLANE: Objection to form.  
20 MR. HAMERMAN: Objection to form.  
21 MR. NATBONY: Objection to form.  
22 MR. MASHBERG: Same.  
23 A. I believe there is always a  
24 roadmap available to accomplish goals if  
25 you want to accomplish them. That's why we

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2 MR. HAMERMAN: Objection to form.  
3 MS. SPILLANE: Objection to form.  
4 A. That would be based on my  
5 discussions with counsel, so I'm not going  
6 to respond.  
7 Q. Okay. Are you aware of any  
8 provision in the RSA that allows PREPA to  
9 impose additional charges or issue  
10 additional debt to repay other legacy  
11 obligations without bondholder consent?  
12 MR. HAMERMAN: Objection.  
13 MR. MASHBERG: Objection to form.  
14 A. Again, I would suggest to you  
15 that those are discussions that I'm not in  
16 a position to discuss with you.  
17 Q. Okay. Are you aware of anything  
18 in the RSA that talks about -- that just  
19 uses the words additional charges or  
20 additional debt to repay legacy  
21 obligations?  
22 MS. SPILLANE: Objection to form.  
23 MR. NATBONY: Objection.  
24 MR. MASHBERG: Object to the  
25 form.

1 D. Brownstein - Professional Eyes Only  
2 have this RSA with bond creditors on PREPA.  
3 Q. I'm sorry, I don't understand.  
4 Do you mean to say that this RSA  
5 reflects the fact that -- or your belief  
6 that -- what? I'm sorry. I'm confused. I  
7 don't understand.  
8 A. That's okay. Let me say it, try  
9 and say it a little better for you.  
10 Q. How about different? I'm not  
11 going to categorize that.  
12 A. What I am saying is that this RSA  
13 is very complicated and was clearly very  
14 difficult to negotiate. If we could  
15 accomplish this when we wanted to, we can  
16 clearly accomplish a roadmap to settlements  
17 with other creditors if we choose to.  
18 Q. Okay. Do you know if the FOMB  
19 has chosen to do that?  
20 MS. SPILLANE: Objection to form.  
21 MR. MASHBERG: Objection.  
22 To the extent that your answer  
23 would implicate any communications with  
24 lawyers or the FOMB, I would ask that  
25 your counsel direct you not to answer

1 D. Brownstein - Professional Eyes Only  
2 the question.

3 MS. SPILLANE: Do you have an  
4 answer based on things other than  
5 legal --

6 MR. ARRASTIA: Well, I just asked  
7 if. I didn't ask him the substance.

8 A. Well, unfortunately, all of my  
9 dialogue would involve both the board and  
10 Proskauer; so I think for now, I need to  
11 not answer that.

12 Q. Do you know if the RSA that you  
13 negotiated requires bondholder consent to  
14 reach a settlement with other creditors?

15 MS. SPILLANE: Objection to form.

16 MR. NATBONY: Objection.

17 MR. HAMERMAN: Objection.

18 A. Under circumstances, yes. Under  
19 others, no.

20 Q. Okay. What circumstances yes?

21 MR. HAMERMAN: Same objection.

22 MR. NATBONY: Same. Calls for a  
23 legal conclusion.

24 A. Yeah, as I said earlier, I mean,  
25 your line of questioning continues to be

1 D. Brownstein - Professional Eyes Only  
2 based on my dialogue with counsel. And,  
3 therefore, I'm going to have to decline to  
4 give you a response right now.

5 Q. I'm asking you what's in a  
6 document that's public that you negotiated.  
7 I'm asking you if you think it's in this  
8 document.

9 A. I believe it is. And, again,  
10 that is based on dialogue with counsel. So  
11 I'm going to have to leave it there.

12 Q. Okay.

13 A. Okay?

14 Q. Have you read something in this  
15 document that indicates to you that you  
16 need shareholder consent to reach a  
17 settlement with other creditors?

18 MS. SPILLANE: Objection to form.

19 MR. MASHBERG: Objection to form.

20 MR. HAMERMAN: Objection.

21 MR. NATBONY: Objection.

22 A. What I understand is that the  
23 fuel line lenders' counsel believes we do.

24 Q. Does anyone else, that you know?

25 MR. HAMERMAN: Same objection.

1 D. Brownstein - Professional Eyes Only

2 MS. SPILLANE: Objection.

3 MR. MASHBERG: Same objection.

4 A. I will answer the way I answered  
5 it a moment ago because I think that's the  
6 best answer I can give to be helpful.

7 I believe that to the extent we  
8 want to solve a problem, we can accomplish  
9 that goal.

10 MR. ARRASTIA: Why don't we take  
11 a quick break. Let me look through my  
12 notes, please.

13 THE VIDEOGRAPHER: The time is  
14 1:41 p.m. We are off the record.

15 (Recess is taken.)

16 THE VIDEOGRAPHER: The time is  
17 2:03 p.m. We are back on the record.

18 BY MR. ARRASTIA:

19 Q. Let me go back and clear up a  
20 couple of things where I wasn't certain.

21 You had talked a little bit about  
22 RSA bonds that were currently trading at a  
23 discount to par.

24 Do you recall that?

25 A. Yes.

1 D. Brownstein - Professional Eyes Only

2 Q. All right. Is that discount to  
3 par, do you know if that's related -- or  
4 let me put it this way: Do you know if  
5 those bonds bear the risk that the RSA  
6 won't be approved and those bonds won't be  
7 issued?

8 MS. SPILLANE: Objection to form.

9 MR. HAMERMAN: Objection.

10 A. There are loads of components as  
11 to why their value is less than par, and  
12 that clearly has a role in it as well.

13 Q. Okay.

14 A. The bigger role is that as a  
15 credit, there is a limited number of buyers  
16 who can buy it from the current owners  
17 because of the structure.

18 Q. Okay. If those -- if the RSA is  
19 approved and those bonds are issued, will  
20 the pool of potential buyers grow?

21 A. No. Unfortunately, it's about  
22 credit, not about legals.

23 Q. Have you evaluated how much of a,  
24 of the factor, the fact that the RSA might  
25 not be approved and the bonds issued, have

1 D. Brownstein - Professional Eyes Only  
2 you analyzed how much of a factor that is  
3 in the trading value?

4 MS. SPILLANE: Objection to form.

5 A. I'm an investment banker. I'm  
6 not a trader, okay?

7 Q. So from that, I take it that you  
8 haven't done that analysis? It's not in  
9 your bailiwick?

10 A. Correct.

11 I think it would be more in the  
12 bailiwick of an AlixPartners to do for you.

13 Q. Okay. And your projection is  
14 that once these bonds are issued, that they  
15 will, based on the 2018 load, they will  
16 perform well?

17 MS. SPILLANE: Objection to form.

18 MR. MASHBERG: Objection to form.

19 MR. HAMERMAN: Objection.

20 A. No.

21 Q. Okay. So why don't you think  
22 that they will perform -- well, let me ask  
23 you this: These were 40-year maturity  
24 bonds, correct?

25 A. Yes.

1 D. Brownstein - Professional Eyes Only

2 Q. And you have calculated an  
3 expectation that they will be paid off in  
4 33 years?

5 A. No, I have not done a calculation  
6 that expectations are they will be paid in  
7 33 years.

8 Q. Okay. And where did that  
9 expectation come from?

10 A. That is based on the fiscal  
11 plan's numbers. And using those numbers,  
12 we structured to, based on the numbers,  
13 have the bonds amortized within 33 years,  
14 the Tranche A bonds.

15 Q. Sorry, just to be clear, Tranche  
16 A, right?

17 A. Um-hmm. That's what I said.

18 Q. What you say and what I hear are  
19 not always the same. But thank you.

20 Now when we talked about the  
21 permitted indebtedness, you said that you  
22 were in a room with counsel and -- when  
23 some of the items were discussed.

24 Which counsel are you referring  
25 to?

1 D. Brownstein - Professional Eyes Only  
2 A. Counsels to both AAFAF and the  
3 board.

4 So perhaps I can make this a  
5 little easier and give you one of the  
6 examples of how I believe we can issue debt  
7 to cover other liabilities.

8 And if you were to go to the back  
9 of the RSA, which you've given us, and  
10 let's go to 14, which is right before  
11 Schedule I-A. Let's see, so what does that  
12 mean it is? It would be way in the back --

13 MS. SPILLANE: Annex A?

14 THE WITNESS: Annex A. Thank you  
15 for finding that so quickly for me.

16 A. Annex A, the Recovery Plan Term  
17 Sheet.

18 MR. LYNCH: Where are we?

19 THE WITNESS: Annex A. It's in  
20 the back. It's like 15 pages from the  
21 end at most.

22 MS. SPILLANE: It's a chart form.

23 A. It's a chart form. This is  
24 the --

25 Q. Let me make sure we're on the

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2 same page.

3 A. Sorry.

4 Q. Is it this (indicating)?

5 A. So it's Annex A to Recovery Plan  
6 Term Sheet.

7 Q. Right.

8 A. And then please go to page 14.  
9 You found it?

10 Q. Yeah. The next page is I-A-1.

11 A. The next page is I-A-1, correct.

12 Q. That helps.

13 MR. LYNCH: Thank you.

14 A. Take a look at "Other Charges."

15 Q. Okay.

16 (Document review.)

17 A. Did you find it?

18 Q. Oh, no, I've got it.

19 A. Okay.

20 Q. Is there something else or is  
21 that what you wanted to point out?

22 A. No. That's an example of, as I  
23 have said, I believe there are mechanisms  
24 we could use to finance legacy charges.

25 Q. Okay. Now so let me ask you

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2 this: It says, "Subject to any  
3 restrictions of the securitization trust  
4 agreement."

5 A. Um-hmm.

6 Q. Is it your understanding that  
7 that includes the Certain Covenants  
8 position that we looked at starting on 1B4?  
9 Or 1B4 doesn't apply to the provision you  
10 just shared with us?

11 MS. SPILLANE: Objection to the  
12 extent it calls for a legal  
13 conclusions.

14 MR. NATBONY: Objection.

15 MR. HAMERMAN: Objection.

16 A. What I would do is suggest,  
17 Counsel, that you all take a look at the  
18 section and the others. And, as I've said,  
19 I believe there is a roadmap to doing what  
20 we need to do to get to a successful  
21 conclusion of PREPA so that we can help the  
22 people of Puerto Rico with their recovery.

23 Q. Okay.

24 A. And in case you're not aware of  
25 it, I'm one of those people, Counselor.

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2 Q. I appreciate your suggestion.

3 I was just asking if it is your  
4 understanding, your belief, that these  
5 other charges, the section you shared with  
6 us, is still applicable in light of the  
7 certain covenants that we talked about on  
8 I-B-4 and IB5?

9 MR. NATBONY: Objection to form.

10 MS. SPILLANE: Objection. Calls  
11 for a legal conclusion.

12 A. And I continue to give you the  
13 same answer I've given you.

14 Q. You do not have an understanding?

15 MR. NATBONY: Objection to form.

16 A. I've given you the answer that  
17 I've given you, which is I believe there's  
18 a roadmap to accomplishing the goals that  
19 we'd need to accomplish here.

20 Q. And you're suggesting that this  
21 is the roadmap?

22 A. No, I'm suggesting --

23 MR. MASHBERG: Objection.

24 Mischaracterizes.

25 MS. SPILLANE: Objection to form.

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2 A. -- it's one of many places where  
3 we can utilize this document to accomplish  
4 whatever goals we need to accomplish for  
5 the benefit of PREPA and the people of  
6 Puerto Rico.

7 Q. All right. Speaking of  
8 creditors, are you currently engaged in any  
9 conversations with other creditors other  
10 than the bondholders as to this roadmap  
11 that you discussed?

12 A. No.

13 Q. Is that because they refuse to  
14 engage or some other reason?

15 MS. SPILLANE: Objection to form.

16 MR. MASHBERG: Objection to form.

17 A. I believe the fuel line lenders  
18 understand where the government parties are  
19 today as it relates to PREPA. And I  
20 believe with respect to the UCC, we're  
21 trying to determine what actually -- who  
22 your clients are and what your claims are.

23 Q. Thank you.

24 You mentioned government parties.  
25 Let me talk to you a little bit about

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2 government.

3 I had asked you and you had  
4 shared with me that you didn't know when  
5 government approval might be forthcoming,  
6 but I failed to ask you, do you know if --

7 A. Government approval of what? I'm  
8 sorry. I know you asked --

9 Q. I'm sorry. Of the RSA.

10 A. Government approval of the RSA?

11 MS. SPILLANE: Legislative  
12 approval?

13 A. They've approved it.

14 You meant legislation.

15 Q. Legislation. I'm sorry. We're  
16 using different terms as to government. I  
17 mean the legislature.

18 I asked you and you told you  
19 didn't know when the legislature might?

20 A. Correct.

21 Q. Do you know if it will approve  
22 it?

23 MR. MASHBERG: Objection to form.

24 A. I'm not on the legislature, so I  
25 wouldn't know.



|   |   |
|---|---|
| <p style="text-align: right;">Page 350</p> <p>1 D. Brownstein - Professional Eyes Only</p> <p>2 that?</p> <p>3 A. Um-hmm.</p> <p>4 Q. Okay. Did the government parties</p> <p>5 have a goal of advancing the interests of</p> <p>6 PREPA's creditors in connection with the</p> <p>7 RSA?</p> <p>8 MS. SPILLANE: Objection to form.</p> <p>9 A. I don't understand your question.</p> <p>10 MR. NATBONY: Objection as to</p> <p>11 form.</p> <p>12 A. PREPA is in bankruptcy. Our goal</p> <p>13 is to make sure we utilize that to create</p> <p>14 the most beneficial restructuring that we</p> <p>15 can given our very difficult requirements,</p> <p>16 including the cap charge, the duration</p> <p>17 before execution will occur of the plan of</p> <p>18 adjustment, and the other provisions of the</p> <p>19 RSA, such as no acceleration rates.</p> <p>20 Q. Under the RSA, if it's approved</p> <p>21 and PREPA somehow generates significant</p> <p>22 unexpected revenue or savings before a plan</p> <p>23 is confirmed, the benefit of those revenues</p> <p>24 or savings would go to ratepayers, right?</p> <p>25 MR. NATBONY: Objection.</p>                                | <p style="text-align: right;">Page 351</p> <p>1 D. Brownstein - Professional Eyes Only</p> <p>2 MS. SPILLANE: Objection to form.</p> <p>3 MR. HAMERMAN: Objection to form.</p> <p>4 MR. MASHBERG: Objection to form.</p> <p>5 A. I'm sorry, I don't -- I believe</p> <p>6 what you asked is in the event prior to the</p> <p>7 plan being confirmed there are additional</p> <p>8 revenues available at PREPA above the</p> <p>9 required interest under the RSA that goes</p> <p>10 to the RSA participants, that that money</p> <p>11 would flow back to the ratepayers.</p> <p>12 If that's what you're asking, I</p> <p>13 don't know where it would flow, but if</p> <p>14 there was excess after what's required</p> <p>15 under the RSA to be paid to the</p> <p>16 bondholders, I believe that money would be</p> <p>17 the property of PREPA.</p> <p>18 Q. Did you have a chance to read</p> <p>19 those forbearance agreements that I showed</p> <p>20 you before we broke at one point?</p> <p>21 A. No.</p> <p>22 Q. Do you understand -- without</p> <p>23 looking at them, because I don't want to</p> <p>24 take the time, but are you able to answer</p> <p>25 this question without looking at it?</p> |
| <p style="text-align: right;">Page 352</p> <p>1 D. Brownstein - Professional Eyes Only</p> <p>2 Would you understand a</p> <p>3 forbearance of Citi on its fuel line loan</p> <p>4 to amount in effect to a re-lending of the</p> <p>5 amounts due under the Citi fuel line loan?</p> <p>6 MR. MASHBERG: Objection to form.</p> <p>7 MS. SPILLANE: Objection to form.</p> <p>8 MR. NATBONY: Objection.</p> <p>9 MR. HAMERMAN: Objection.</p> <p>10 A. Well, first of all, I haven't</p> <p>11 looked at it. But, again, if your question</p> <p>12 is about re-lending, let's make sure you</p> <p>13 understand what happened with the</p> <p>14 bondholders.</p> <p>15 Q. Sure.</p> <p>16 A. As I understand it from PREPA's</p> <p>17 adviser at the time, Lisa Donahue, that the</p> <p>18 concern was that in the event PREPA</p> <p>19 defaulted on its bonds, they would not be</p> <p>20 able to purchase fuel. It wasn't a</p> <p>21 function of whether they would have money</p> <p>22 to purchase it or not. What I understood</p> <p>23 was that the fuel sellers would walk away.</p> <p>24 So this was a matter of keeping</p> <p>25 the lights on in Puerto Rico. And so what</p> | <p style="text-align: right;">Page 353</p> <p>1 D. Brownstein - Professional Eyes Only</p> <p>2 happened was PREPA used cash it had to pay</p> <p>3 bondholders their P&amp;I other than the</p> <p>4 signatories to the RSA, which included</p> <p>5 Assured, National, Syncora and the ad hoc</p> <p>6 group. So each of them agreed to lend</p> <p>7 PREPA money so that they had sufficient</p> <p>8 money to pay debt service on their bonds.</p> <p>9 What I don't know is whether, but</p> <p>10 I don't believe so, that the fuel line</p> <p>11 loans were in the same position. But those</p> <p>12 are questions for Lisa Donahue, not me.</p> <p>13 Q. Okay. Let me direct your</p> <p>14 attention to paragraph 36 of your</p> <p>15 declaration.</p> <p>16 A. Um-hmm.</p> <p>17 Q. It says -- I'll wait until you</p> <p>18 have it.</p> <p>19 A. Yes.</p> <p>20 Q. It says there, "In negotiating</p> <p>21 the terms of the RSA, it was also necessary</p> <p>22 to compensate supporting holders in</p> <p>23 consideration of their prepetition</p> <p>24 re-lending bonds that remain outstanding</p> <p>25 and forbearance from exercising any rights</p>   |



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2 or remedies or seeking stay relief to do so  
3 pending implementation of the RSA."

4 It goes on from there.

5 A. Um-hmm.

6 Q. What I'd like to know is why was  
7 it necessary, in your view, to compensate  
8 them for that?

9 A. Because what Lisa had agreed to  
10 with the fuel line -- I mean with the  
11 bondholders was that she would pay them  
12 back at par on those loans, plus accrued,  
13 very quickly after those loans were made  
14 and that the purpose was, again, to keep  
15 the lights on in Puerto Rico.

16 So we were honoring the deal that  
17 the restructuring officer of PREPA had  
18 agreed to with the fuel line lenders -- I  
19 mean with the bondholders.

20 Q. Was it legally necessary in your  
21 view to compensate the re-lenders the way  
22 that PREPA has done under the RSA?

23 MS. SPILLANE: Objection. Calls  
24 for a legal conclusion.

25 MR. NATBONY: Objection to form.

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2 A. I can't answer that question. I  
3 don't know. But what I'm telling you is  
4 that that was the business deal the  
5 restructuring officer of PREPA agreed to  
6 with the bondholders to make sure the  
7 lights remained on in Puerto Rico, and we  
8 didn't want to be the party that dishonored  
9 that agreement to dishonor the agreement  
10 that she had struck.

11 Q. Are you aware of Citi selling its  
12 fuel line loan?

13 A. I know that Citi has sold its  
14 fuel line loan, yes.

15 Q. Were you involved in the process  
16 that led to the sale of that loan?

17 A. No. That would have been done by  
18 an organization in Citi called IRM, which  
19 is our restructuring arm, which works  
20 independent from any other any other arm at  
21 Citi. So they would not have engaged us in  
22 that dialogue.

23 Q. Why don't I ask -- you were  
24 talking about IRM and whether --

25 A. IRM would have done the sale of

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2 that asset through third parties, never  
3 through our organization, through lawyers  
4 who are not part of our organization, and  
5 therefore we would have no role or dialogue  
6 on that topic.

7 Q. And just so I'm clear, would they  
8 also be the ones to decide whether it was  
9 desirable for Citi to sell the fuel line  
10 loan?

11 A. Correct.

12 Q. Okay. And you had no involvement  
13 in the decision, regardless how it was  
14 executed, to sell the Citi fuel line loan  
15 is that --

16 A. Well, again, they have their own  
17 counsel. They do their own analysis as to  
18 credit risk and make a determination as to  
19 whether to sell with outside counsel and  
20 inside counsel of their choosing, who has  
21 no tentacles to the business side of Citi.

22 Q. Okay. Please --

23 A. That's how banks work.

24 Q. Please turn to paragraph 25.

25 A. Of what document?

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2 Q. Of your declaration.

3 And just generally, you describe  
4 in paragraphs 25 through 29 what you say  
5 were the objectives of the government  
6 parties in connection with the, the  
7 negotiation with the RSA; is that fair?

8 A. Um-hmm. Yes.

9 Q. When were those objectives  
10 decided upon?

11 A. At the time that the board first  
12 engaged with the signatories to the RSA.

13 Q. How was -- how was it  
14 communicated -- how were those objectives  
15 communicated to you?

16 A. By the board in a meeting as we  
17 prepared our proposal together to the RSA  
18 signatories, the original RSA signatories,  
19 to request that they agree to certain  
20 changes to the RSA in advance of the  
21 board's vote on whether to approve the RSA  
22 or not.

23 Q. Are the objectives reflected in  
24 any documents?

25 A. I'm sorry, are the objectives?

|  |   |
|--|---|
| <p style="text-align: right;">Page 358</p> <p>1 D. Brownstein - Professional Eyes Only</p> <p>2 Q. The objectives that are described</p> <p>3 in paragraphs 25 through 29, is the</p> <p>4 communication of those objectives reflected</p> <p>5 in any documents?</p> <p>6 A. In the RSA itself.</p> <p>7 Q. I'm talking about from the</p> <p>8 beginning of the negotiation of the RSA.</p> <p>9 A. Yes. We submitted a presentation</p> <p>10 to all of the creditors, including your</p> <p>11 clients, with changes that we proposed in</p> <p>12 order to proceed with the original RSA.</p> <p>13 Do you not have that?</p> <p>14 Q. I very well may.</p> <p>15 A. Okay.</p> <p>16 Q. Do you agree that bondholders</p> <p>17 before -- while the fuel lines were being</p> <p>18 paid, do you agree that bondholders derived</p> <p>19 a benefit from PREPA being able to buy</p> <p>20 fuel?</p> <p>21 MS. SPILLANE: Objection to form.</p> <p>22 MR. MASHBERG: Objection to form.</p> <p>23 A. No.</p> <p>24 Q. You were talking before about how</p> <p>25 PREPA would go dark if it couldn't buy</p>   | <p style="text-align: right;">Page 359</p> <p>1 D. Brownstein - Professional Eyes Only</p> <p>2 fuel, right?</p> <p>3 A. Yes.</p> <p>4 Q. Did the provision of the fuel</p> <p>5 line credit benefit PREPA by permitting</p> <p>6 PREPA to buy fuel?</p> <p>7 A. No.</p> <p>8 Q. Why not?</p> <p>9 A. Because that's not what its</p> <p>10 purpose was. It was a timing drag of 90</p> <p>11 days, right?</p> <p>12 It was all about a cash flow</p> <p>13 need. It wasn't about actually paying into</p> <p>14 a default to make sure that the lights</p> <p>15 didn't go off. It's very different.</p> <p>16 Q. Let's go to paragraph 29 of your</p> <p>17 declaration.</p> <p>18 (Witness complies.)</p> <p>19 Q. And this is a paragraph that</p> <p>20 talks about the transformation of PREPA,</p> <p>21 correct?</p> <p>22 A. Correct.</p> <p>23 Q. And I'll start with the second</p> <p>24 sentence. It says, "This goal ran in</p> <p>25 tandem with the other goals to reduce the</p>   |
| <p style="text-align: right;">Page 360</p> <p>1 D. Brownstein - Professional Eyes Only</p> <p>2 overall financial burden and risk on PREPA</p> <p>3 and its ratepayers but added an additional</p> <p>4 key component to any agreement that would</p> <p>5 be reached to avoid disruption to the</p> <p>6 transformation bid process. Supporting</p> <p>7 holders would have to stay patiently on the</p> <p>8 sidelines and wait to the effective date of</p> <p>9 a confirmed plan of adjustment before</p> <p>10 receiving the new securitization bonds."</p> <p>11 Do you see that?</p> <p>12 A. Um-hmm.</p> <p>13 Q. Why do they needed to stay</p> <p>14 patient eventually on the sidelines, the</p> <p>15 supporting holders?</p> <p>16 A. Because there is no way to</p> <p>17 consummate the issuance of debt for them</p> <p>18 without the plan of adjustment. And the</p> <p>19 plan of adjustment would not go to court</p> <p>20 until we had the operator or concessionaire</p> <p>21 on board and could, as I said earlier</p> <p>22 today, make sure that we were protecting</p> <p>23 them against liability for prior actions at</p> <p>24 PREPA.</p> <p>25 Q. And why can't that happen after</p> | <p style="text-align: right;">Page 361</p> <p>1 D. Brownstein - Professional Eyes Only</p> <p>2 confirmation?</p> <p>3 A. Because it's only through that</p> <p>4 court that we can provide them those</p> <p>5 protections.</p> <p>6 Q. Can you help me understand that?</p> <p>7 A. I'm not a lawyer, so I think that</p> <p>8 I would recommend you speak to lawyers</p> <p>9 about the reasons behind that.</p> <p>10 Q. What liabilities would a</p> <p>11 transformation partner be concerned about</p> <p>12 succeeding to if it were -- if it were not</p> <p>13 involved in the -- you know, in the plan</p> <p>14 confirmation --</p> <p>15 MS. SPILLANE: Objection to form.</p> <p>16 BY MR. LYNCH:</p> <p>17 Q. -- if a bid process were to</p> <p>18 happen after the plan confirmation?</p> <p>19 MR. MASHBERG: Objection to form.</p> <p>20 A. I'm sorry, if I take over a</p> <p>21 company and that company has liabilities</p> <p>22 that spring up that were prior liabilities</p> <p>23 after the day I acquired the company, I</p> <p>24 still have liabilities for it.</p> <p>25 Q. What prior liabilities would --</p> |